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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

JOSE LANDAVERDE,
Individually,

Plaintiff,

vs.

BOYD GAMING CORPORATION dba
THE ORLEANS HOTEL AND CASINO,
a Nevada corporation;
DOES 1-10, inclusive; ROE
CORPORATIONS 1-10, inclusive,

Defendant.

COMPLAINT
Jury Trial Demanded

COMES NOW, the Plaintiff, JOSE LANDAVERDE, by and through his undersigned counsel, KIRK T. KENNEDY, ESQ., who files this Complaint against the Defendant and would allege as follows:

1. Plaintiff, JOSE LANDAVERDE, is a resident of Clark County, Nevada and did so reside herein during all events complained of in this action.

2. Defendant, BOYD GAMING CORPORATION dba THE ORLEANS HOTEL AND CASINO, is a Nevada corporation and did so operate herein during all events complained of in this action.

3. Defendant named herein is an employer within the jurisdictional coverage of Title VII of the Civil Rights Act of 1964 and under Nevada's anti-discrimination statutes.

4. Plaintiff is unaware of the true names and capacities of defendants sued herein as Does 1-10 and Roe Corporations 1-10, and will amend her complaint to show their true names and capacities when the same are ascertained. Plaintiff is informed and believes and

1 thereon alleges that each of these fictitiously named defendants is responsible in some
2 manner for the occurrences herein alleged, and that Plaintiff's injuries as herein alleged
3 were proximately caused by the aforementioned defendants. Plaintiff is further informed
4 and believes and thereon alleges that at all times herein mentioned each and every
5 defendant was the agent and employee of the remaining defendants and, in doing the
6 things hereinafter alleged, was acting within the course and scope of such agency and
7 employment. Each defendant, in doing the acts alleged herein, was acting with the
8 consent, permission and authorization of each of the remaining defendants.

9 5. Plaintiff timely submitted a charge of discrimination with the Equal Employment
10 Opportunity Commission(487-2014-00394). The Equal Employment Opportunity
11 Commission assumed jurisdiction over Plaintiff's charge and notice of the charge was
12 served upon the Defendant per statutory requirements.

13 6. On or about March 23, 2014, Plaintiff received a "notice of right to sue" letter which
14 was issued from the Equal Employment Opportunity Commission pursuant to 42 U.S.C.
15 Section 2000e-5(f)

16 7. Both jurisdiction and venue are appropriate as all events occurred in Clark County,
17 Nevada; the Defendants operate in Clark County, Nevada; and jurisdiction is predicated
18 upon a federal cause of action under 42 U.S.C. Section 2000, et seq.

19 8. Plaintiff, a Hispanic male, was hired by Defendant in 2002 as a bus person and
20 remains employed with the Defendant in the capacity as food server.

21 9. Plaintiff has endured various forms of discriminatory conduct and harassment based on
22 his gender, male, and race/national origin, Hispanic, from employee(s) of the Defendant
23 which included pervasive and ongoing verbal abuse, threats and intimidation; a hostile
24 work environment predicated upon Plaintiff's gender/national origin which included
25 verbal abuse, threats and intimidation; unequal treatment; disparate treatment, and overall
26 discriminatory gender based and national origin based conduct directed against the
27 Plaintiff.

28 Further, Plaintiff has been subjected to repeated sex based comments and
comments based on Plaintiff's sexual preference from co-workers and supervisors that

1 has adversely permeated the work environment in an open and hostile manner; Plaintiff
2 has suffered undue and unfair criticisms of his work performance by the Defendant;
3 Plaintiff has been subject to unequal and disparate work conditions predicated on his
4 gender and national origin; Plaintiff has suffered unfair and unwarranted disciplinary
5 actions which were without foundation or basis and predicated upon his gender and
6 national origin; Plaintiff has also suffered retaliation for engaging in protected conduct
7 and other discriminatory conduct.

8 10. Plaintiff placed agents of the Defendant on notice of the ongoing gender
9 discrimination, national origin discrimination and hostile work environment, however,
10 Defendant and its agents failed to protect Plaintiff from harm caused by the
11 discriminatory conduct of its employees.

12 11. Plaintiff has suffered harm and damages as a result of Defendant's conduct as set
13 forth herein in an amount according to proof at trial.

14 **FIRST CLAIM FOR RELIEF**
15 **VIOLATIONS OF TITLE VII OF THE CIVIL RIGHTS ACT OF 1964 and**
16 **NEVADA LAW**

17 12. Plaintiff realleges, readopts and reincorporates the allegations contained in
18 paragraphs 1 through 11 as though fully set forth herein.

19 13. Plaintiff, a Hispanic male, was subjected to regular and frequent acts of
20 discrimination, harassment, intimidation, retaliation, threats and unequal treatment in an
21 overall hostile work environment, as a result of conduct and actions of agents of the
22 Defendant, said conduct in violation of 42 U.S.C. Section 2000 et seq., Title VII of the
23 Civil Rights Act of 1964 as amended and Nevada state law. This conduct includes, *but is*
24 *not limited to*, Plaintiff has endured various forms of discriminatory conduct and
25 harassment based on his gender, male, and race/national origin, Hispanic, from
26 employee(s) of the Defendant which included pervasive and ongoing verbal abuse, threats
27 and intimidation; a hostile work environment predicated upon Plaintiff's gender/national
28 origin which included verbal abuse, threats and intimidation; unequal treatment;

disparate treatment, and overall discriminatory gender based and national origin based conduct directed against the Plaintiff.

Further, Plaintiff has been subjected to repeated sex based comments and comments based on Plaintiff's sexual preference from co-workers and supervisors that has adversely permeated the work environment in an open and hostile manner; Plaintiff has suffered undue and unfair criticisms of his work performance by the Defendant; Plaintiff has been subject to unequal and disparate work conditions predicated on his gender and national origin; Plaintiff has suffered unfair and unwarranted disciplinary actions which were without foundation or basis and predicated upon his gender and national origin; Plaintiff has also suffered retaliation for engaging in protected conduct and other discriminatory conduct.

14. As a direct and proximate result of the Defendant's actions, Plaintiff suffered harm and damages in an amount according to proof at trial.

SECOND CLAIM FOR RELIEF

NEGLIGENT SUPERVISION

15. Plaintiff realleges, readopts and reincorporates the allegations contained in paragraphs 1 through 14 as though fully set forth herein.

16. Both Defendants were responsible for the supervision and employment of their agents to insure that said agents performed their duties and functions in accordance with state and federal law.

17. Defendants were placed on notice of gender based and national origin based discrimination and harassing conduct being directed against Plaintiff, however Defendants negligently, willfully, carelessly and recklessly failed to properly supervise their agents allowing harm to Plaintiff.

18. As a direct and proximate result of this negligent supervision by Defendants, Plaintiff suffered harm and damages in an amount according to proof at trial.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for judgment against the Defendant as follows:

1. For compensatory damages, including, but not limited to, future pecuniary losses, physical and emotional pain and suffering, physical discomfort, inconvenience, mental anguish and loss of enjoyment of life in a sum according to proof at trial.
2. For special damages according to proof at trial;
3. For reasonable attorney's fees incurred herein.
4. For costs of suit and prejudgment interest.
5. For such other and further relief deemed appropriate by this Court.

Dated this 18th day of June, 2014.

/s/Kirk T. Kennedy
KIRK T. KENNEDY, ESQ.
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815 S. Casino Center Blvd.
Las Vegas, NV 89101
(702) 385-5534
Attorney for Plaintiff

JURY TRIAL DEMAND

Pursuant to FRCP 38, Plaintiff does hereby demand a trial by jury of all issues and claims raised in this Complaint.

Dated this 18th day of June, 2014.

/s/Kirk T. Kennedy
KIRK T. KENNEDY, ESQ.
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